IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 9TH JANUARY 2007 / 19TH PAUSHA 1928

WP(C).No. 787 of 2007(R)

PETITIONER:

T. MANOJ KUMAR,
S/O.N.S. RAMAKRISHNAN NAIR, THEKKUMTHALA HOUSE,
G/1, HP ENCLAVE, MAROTTICHODU,
EDAPPALLY, KOCHI-24.

BY ADV. SRI.C.K.ABDUL RAHIM

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY TO REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DEPUTY TAHASILDAR,
(REVENUE RECOVERY), KANAYANNOOR TALUK,
ERNAKULAM.

3. THE DEPUTY LABOUR COMMISSIONER
(COMMISSIONER FOR WORKMEN COMPENSATION),
ERNAKULAM, CIVIL STATION, KAKKANADU P.O.

4. R. SASIDSHARAN, S/O.RAMAN NAIR,
PEEDIKAPARAMBIL, MARAUD P.O., ERNAKULAM.

5. M/S. KRISHNA AGENCIES, IV/637-B,
MAROTTICHODU JUNCTION, NEAR BYPASS,
EDAPPALLY, KOCHI-24.

6. SHRI.MANIKANDAN, PARTNSER,
M/S.KRISHNA AGENCIES, IV/637-B, MAROTTICHODU
JUNCTION, NEAR BYPASS, EDAPPALLY, KOCHI-24.

SRI.JOHNSON ABRAHAM
SRI.NELSON ABRAHAM
SRI.S.GOPINATHAN
R6 BY ADV. SRI.M.K.ABOOBACKER
SRI.MANSOOR.B.H.
SRI.S.V.PRAMOD
R1 TO 3 BY G.P. SRI.I.V.PROMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.787 of 2007

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Dated this the 9th day of January, 2007.

JUDGMENT

Heard counsel for the petitioner and counsel appearing for the 6th respondent at the admission stage. The petitioner's case is that workmen's compensation award is exparte and petitioner has applied for setting aside exparte award. According to 6th respondent, he has deposited Rs.50,000/- with the second respondent. Counsel for the petitioner and 6th respondent contended that one Dileepkumar is the continuing partner who is liable to pay compensation on behalf of the 5th respondent-firm against which the award is passed. Even though petitioner is filing the W.P. second round, the petitioner has not impleaded the said Dileepkumar in the previous O.P. or in this W.P. In any case having regard to the contentions raised, I feel petitioner's prayer can be allowed, but on conditions. Accordingly W.P. is disposed of with direction to the petitioner to deposit rupees fifty thousand with the second respondent within a week from now. The second respondent will forward the amount deposited by the petitioner and 6th respondent to the third respondent who will retain the deposit for a month and within which time he will issue notice to the parties, hear and dispose of

the applications filed for setting aside exparte award. If 6th respondent wants to file petition, he will also file it without any delay so that all cases can be disposed of together after hearing the claimant, petitioner, 6th respondent and the continuing partner whose address will be furnished by the petitioner and 6th respondent. The amount will be released by the third respondent after orders are passed on application filed by the petitioner and 6th respondent and subject to the same. In between, the second respondent will continue recovery against 5th respondent as they have not contested the recovery proceedings and if full amount is recovered, amount deposited by petitioner and 6th respondent should be refunded.

C.N.RAMACHANDRAN NAIR
Judge

pms